IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Civil Application No.1619 of 2006

In

Writ Petition No.9252 of 2005

Suresh Jagannath Sawanji Applicant

Vs.

Kirloskar Oil Engines Ltd. Respondent

Ms.Shubhangi Borde h/f. Ms.Seema Sarnaik for applicant.

Mr.Neel Helekar with Ms.Sushama Joshi for resp.

CORAM: B.H.MARLAPALLE,J.

August 22, 2006.

P.C.

. This is the application filed under Section 17B of the Industrial Disputes Act, 1947 as in Writ Petition No.9252 of 2005 the award passed by the 1st Labour Court at Solapur granting reinstatement has been stayed while admitting the said writ petition.

. It is noted that the first party had allegedly opted for voluntary retirement on 11/6/1998 and four

years later he raised a dispute about his illegal termination on the ground that he was forced to opt for voluntary retirement in terms of the compromise between the workman and the Management on 4/9/1997. Though a separate affidavit has not been filed by the applicant-workman contending that he is unemployed as at present, the employer has filed an affidavit-in-reply and pointed out that the applicant is gainfully employed as at present. It has been clarified by the employer in the affidavit-in-reply that the applicant owns and runs a floor mill and chilli crushing machine in his own house having Survey No.269/2, Plot No.65 Raghvendra Nagar, Majrewadi, Solapur and in support thereof the electricity bill of the said establishment has been annexed to the affidavit-in-reply. It is also noted that by way of voluntary retirement benefit he was paid an amount of Rs.1,00,000/- and the same has been received by him in June 1998 itself. In the rejoinder he has filed he has admitted that he is running a floor mill and chilli crushing machine but stated that it is not a gainful employment and he does not get sufficient income from the said venture.

. On these obtaining circumstances the

application filed under Section 17B of the Industrial Disputes Act, 1947 does not deserve to be considered and hence the same is hereby rejected.

(B.H.MARLAPALLE,J.)